THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE G. V. SEETHAPATHY

Writ Appeal Nos.123 and 124 of 2006

W.A. No.123 of 2006

Between:

Dr.N. Venkateswara Rao and others

… Appellants

And

The Nagarjuna University represented by
Its Registrar, Nagarjuna Nagar,
Guntur, Guntur District and another

… Respondents

W.A. No.124 of 2006

Between:

Dr.Ch. Thandava Krishna

… Appellant

And

The Nagarjuna University represented by
Its Registrar, Nagarjuna Nagar,
Guntur, Guntur District and another

… Respondents

::JUDGMENT::

Counsel for the appellants: Shri P.V. Krishnaiah

Counsel for respondent No.1: Shri D. Nagarjuna Babu

Counsel for respondent No.2: Government Pleader for Finance and Planning

July 10, 2006

Per G.S. Singhvi, CJ

These appeals are directed against order dated 14-10-2004 passed by the learned Single Judge in Writ Petition Nos.1661 and 3570 of 1998 whereby he indirectly rejected the appellants' prayer for issue of a mandamus to the respondents to regularize their services.

The appellants possess post-graduate degrees in different subjects. They also possess research degrees/qualifications. Some of the appellants were appointed in 1992 while others were appointed in 1994 and thereafter. They filed Writ Petition Nos. 1661 of 1998 and 3570 of 1998 with the complaint that the management of Nagarjuna University (for short, 'the University') was subjecting them to discrimination by deliberately giving artificial break of one day in their service and by not paying salary in the regular time scale despite the fact that they have been continuously working as teachers. They pleaded that the policy of contractual appointment adopted by the University is arbitrary and violative of their fundamental right to equality guaranteed under Articles 14 and 16 of the Constitution. Still further, they pleaded that the University is duty bound to consider regularization of their services in accordance with the policy contained in G.O.Ms.No.212, but no step has been taken in that direction and their services are sought to be discontinued pursuant to letter dated 3-1-1998 sent by the State Government to the University and consequential proceedings No.Estt.TS/TA/97-98 dated 5-1-1998 issued by the Vice-Chancellor of the University.

In the counter-affidavits filed on behalf of the University it was averred that the writ petitioners had been engaged as Teaching

Assistants on contract basis to cover the teaching work for self-financing courses and, as such, they do not have the right to be paid salary in the regular scale or seek regularization of service. It was further averred that the petitioners are not entitled to take benefit of the policy contained in G.O.Ms.No.212 because they were engaged for self-financing courses and not against any post in the establishment of the University.

The learned Single Judge relied on order dated 21-10-2003 passed by the Division Bench in Writ Petition No.6469 of 2001 and batch and order dated 27-8-2004 passed in Writ Petition No.8664 of 1998 and batch and disposed of the writ petitions filed by the appellants by recording the following order:

> "It is submitted by all the counsel appearing for the respective parties that all these writ petitions are squarely covered by the judgment of this Court dated 27-8-2004 in W.P.No.8664 of 1998 and batch.
>
> Following the judgment of a Division Bench of this Court in W.P.No.6469 of 2001 and batch dated 21-10-2003, I have disposed of W.P.No.8664 of 1998 and batch by order dated 27-8-2004 observing, inter alia, that it is not desirable to replace the temporary services of the petitioners therein, making similar arrangements, with some others, the respondents shall take steps to identify regular vacancies that are to be filled on permanent basis and accordingly, the respondents were also directed to issue notification and fill up the regular vacancies before the end of the academic year and complete the process of selection on or before 31-3-2005.
>
> Following the judgment dated 27-8-2004 in W.P.No.8664 of 1998 and batch and for the reasons stated therein, these writ petitions are also disposed of in terms thereof."

Shri P.V. Krishnaiah argued that even though the appellants were initially engaged on contract basis, they are entitled to be

regularized in the services of the University because each one of them has completed more than 10 years tenure and their work and conduct has remained above board. He submitted that the scheme devised by the University for engaging Teaching Assistants for self-financing courses is ante-thesis of the doctrine of equality and as the petitioners did not have any choice in the matter, their acceptance of fix term appointment should not be made a ground to deny them the benefit of regularization of service.

Shri D. Nagarjuna Babu, learned counsel for the University argued that the appellants are not entitled to seek regularization of their services because they were engaged on contract basis under the scheme meant for self-financing courses. Learned counsel submitted that the appellants had not been appointed against regular posts/vacancies and, therefore, their services cannot be regularised.

We have considered the respective arguments. In our opinion, the learned Single Judge did not commit any error by not entertaining the appellants' prayer for issue of a direction to the respondents to regularize their services. Admittedly, the appellants were engaged as Teaching Assistants on contract basis under the scheme evolved by the University for self-financing courses. They were neither appointed against regular posts on the basis of recommendations made by the Selection Committee under Section 43 (1) of the Andhra Pradesh Universities Act, 1991 nor they were paid salary out of the grants received from the University Grants Commission or financial assistance rendered by the State Government. Therefore, it is not possible to entertain their prayer for issue of a mandamus to the respondents to regularize their services.

In Writ Appeal No.125 of 2006 and batch (**Dr.A.V.S.S. Prasad v. The Director, National Institute of Technology (Regional**

Engineering College), Warangal and others) decided today, we have, by relying on the Constitution Bench Judgment of the Supreme Court in **Secretary, State of Karnataka v. Uma Devi**[1], held that the Court cannot direct regularization of the services of the appellants who were appointed as lecturers on ad hoc basis. By applying the proposition laid down in the order passed in Writ Appeal No.125 of 2006 and batch, we hold that the appellants, who had been engaged as Teaching Assistants under the scheme for self-financing courses are not entitled to be regularized in the service of the University and the appeals are liable to be dismissed. Ordered accordingly. The detailed reasons recorded in the order passed today in Writ Appeal No.125 of 2006 and batch shall be read as part of this order.

G.S. SINGHVI, CJ

G. V. SEETHAPATHY, J

July 10, 2006

svs

---

[1] (2006) 4 SCC 1